

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COREY ASKEW,

Plaintiff,

vs.

VICKI McCABE, *et al.*,

Defendants.

Case No. 08-13567

Denise Page Hood
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

ORDER TO SHOW CAUSE

Plaintiff filed a prisoner civil rights action on August 19, 2008 against defendants. (Dkt. 1). This matter was referred to the undersigned on April 16, 2010. (Dkt. 9). Defendants filed a motion for order to revoke plaintiff's in forma pauperis status based on the "three strikes" rule found in Prison Litigation Reform Act. (Dkt. 16). The Court issued a scheduling order requiring plaintiff to file a response to the motion to dismiss by July 6, 2010. (Dkt. 17). The scheduling order specifically provided that "[f]ailure to file a response may result in sanctions, including granting all or part of the relief requested by the moving party." (Dkt. 17) (emphasis in original). Plaintiff has failed to file a timely response to defendant's motion for order, has not moved for an extension of time, and has not notified the Court of any change in his address.

"The authority of a federal trial court to dismiss a plaintiff's action with

prejudice because of his failure to prosecute cannot seriously be doubted.” *Link v. Wabash R. Co.*, 370 U.S. 626, 629 (1962). “The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts.” *Link*, 370 U.S. at 629-630. “[D]istrict courts possess broad discretion to sanction parties for failing to comply with procedural requirements.” *Tetro v. Elliott Popham Pontiac, Oldsmobile, Buick, and GMC Trucks, Inc.*, 173 F.3d 988, 991 (6th Cir. 1999), citing, *Carver v. Bunch*, 946 F.2d 451, 453 (6th Cir.1991). Further, “a district court can dismiss an action for noncompliance with a local rule ... if the behavior of the noncomplying party rises to the level of a failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.” *Tetro*, 173 F.3d at 992.

In this case, plaintiff failed to file a response to defendant’s motion to dismiss, contrary to the order of this Court and despite the warning that sanctions could result. Thus, plaintiff is **ORDERED** to **SHOW CAUSE** why his complaint should not be **DISMISSED** for failure to prosecute his claims by **July 26, 2010**. In addition, the Court **ORDERS** plaintiff to show cause by **July 26, 2010** why his complaint should not be **DISMISSED** based on the three strikes rule. **Failure to timely or adequately respond to this Order will result in a recommendation for dismissal of plaintiff’s claims.**

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 14 days of service as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). A party may not assign as error any defect in this Order to which timely objection was not made.

Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objection must be served on this Magistrate.

Date: July 12, 2010

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on July 12, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Christine M. Campbell, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s): Corey Askew, ID# 248480, ALGER MAXIMUM CORRECTIONAL FACILITY, Industrial Park Drive, Post Office Box 600, Munising, MI 49862.

s/Darlene Chubb
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